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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,142	12/09/2003	Toshihiro Morita	26C-027	5932
23400	7590	03/30/2006		
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191			EXAMINER BROWN, DREW J	
			ART UNIT 3616	PAPER NUMBER

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/730,142	MORITA, TOSHIHIRO	
	Examiner	Art Unit	
	Drew J. Brown	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/19/06 (restriction requirement).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 2-15 and 21-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/9/03 & 2/22/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species VI (Figures 31-35) in the reply filed on 1/19/06 is acknowledged.
2. Claims 2-25 and 21-36 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/19/06.

Claim Objections

3. Claims 1 and 16-19 are objected to because of the following informalities:
 - a. In line 3 of claims 1 and 18, "seated in front passenger's seat" should be changed to --seated in a front passenger's seat--.
 - b. In line 3 of claim 16, "around rear side face" should be changed to --around a rear side face--.
 - c. In line 5, "are formed" should be changed to --is formed--.
 - d. In line 11 of claims 17 and 19, "in periphery of the door" should be changed to --in the periphery of the door--.
 - e. In line 19 of claims 17 and 19, "doors" should be changed to --door--.
 - f. In lines 21 and 22 of claims 17 and 19, " section" should be changed to --sections--.Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claims 1 and 16-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In claims 1 and 18, the recitation that the airbag device is located “in front of an occupant” constitutes non-statutory subject matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Marriott et al. (U.S. Pat. No. 6,302,437).

With respect to claims 1 and 18, Marriott et al. discloses a knee-protecting airbag device (64) located in front of a front passenger’s seat for protecting an occupant’s knees upon collision of the vehicle, and a container box (33) located above the knee-protecting airbag device for housing goods (Figure 2). The knee-protecting airbag device comprises an airbag inflatable for protecting the occupant’s knees, an inflator (66) for supplying inflation gas to the airbag, a case (42) for housing the folded airbag and the inflator, the case being opened rearward (Figure 2), and an airbag cover (76 and/or 80) for covering the opening of the case, where the airbag cover is attached to the case and openable upon inflation of the airbag (Figure 4). The container box comprises a box body (48) opened rearward and a lid (76) for openably covering the opening of the box body. Before being mounted on the vehicle, the case of the knee-protecting airbag device having the airbag and the inflator housed therein and the box body of the container box are assembled into a mounting module in advance (via bolt at latch 46 in Figure 2), whereby, by mounting the module on the vehicle (via 38 and 56), the knee-protecting airbag device and the container box are mounted on the vehicle. With respect to the language that the case and the box

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body are assembled before being mounted on the vehicle, the method of forming the device is an intermediate step which does not serve to limit the final product or device of the invention.

7. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Enders (U.S. Pub. No. 2005/0116449 A1).

With respect to claims 1 and 18, Enders discloses a knee-protecting airbag device (328) located in front of a front passenger's seat for protecting an occupant's knees upon collision of the vehicle, and a container box (316) located above the knee-protecting airbag device for housing goods (Figure 12). The knee-protecting airbag device comprises an airbag inflatable for protecting the occupant's knees, an inflator (381) for supplying inflation gas to the airbag, a case (326) for housing the folded airbag and the inflator, the case being opened rearward (Figure 14), and an airbag cover (371 and portion surrounding opening 377) for covering the opening of the case, where the airbag cover is attached to the case and openable upon inflation of the airbag (Figure 14). The container box comprises a box body (361) opened rearward and a lid (362) for openably covering the opening of the box body. Before being mounted on the vehicle, the case of the knee-protecting airbag device having the airbag and the inflator housed therein and the box body of the container box are assembled into a mounting module in advance (paragraph 94), whereby, by mounting the module on the vehicle (via 356), the knee-protecting airbag device and the container box are mounted on the vehicle. With respect to the language that the case and the box body are assembled before being mounted on the vehicle, the method of forming the device is an intermediate step which does not serve to limit the final product or device of the invention.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marriott et al.

With respect to claims 16 and 18, Marriott et al. discloses the claimed invention as discussed above and that an interior decoration member (78) is located around a rear side face of the container box, and a portion of the interior decoration member around the container box and the airbag cover is formed of an integral part.

Although Marriott et al. does not disclose that the integral part is molded, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation does not serve to distinguish over the prior art. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Marriott et al. to mold the integral part because it is old and well-known in the art to use injection molding to simplify the manufacturing and assembly.

With respect to claims 17 and 19, Marriott et al. discloses the claimed invention as discussed above, and that the case comprises a circumferential wall portion (Figure 2) located around the case opening for covering the folded airbag, where the circumferential wall portion comprises a retainer (86) protruded outward for attachment to the airbag cover. The airbag cover comprises a door (76, Figure 4) openable when pushed by the inflating airbag, a thinned breakable portion (column 5, lines 19-22) located in the periphery of the door and breakable when pushed by the airbag to help open the door, a hinge line (line at 26) located in the periphery of the door and bended upon opening of the door, and a joint wall portion (80) to be attached to the case circumferential wall portion by having the case retainer inserted therein and thus being held by the case retainer.

Marriott et al. does not disclose that the molded part integrating the portion of the decoration member around the container box and the airbag cover is a two-color part of soft material and hard material each of which is compatible to each other, and at least the doors, the hinge line, and the joint wall portion of the airbag cover are soft sections made from the soft material, and remaining portions are hard sections made from the hard material.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use two-color soft and hard materials, since it has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

With respect to claim 20, the lid of the container box is assembled with the molded part to form a panel module, and the lid is mounted on the vehicle by attaching the panel module to the vehicle (Figure 2).

10. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enders.

With respect to claims 16 and 18, Enders discloses the claimed invention as discussed above and that an interior decoration member (360) is located around a rear side face of the container box, and a portion of the interior decoration member around the container box and the airbag cover is formed of an integral part.

Although Enders does not disclose that the integral part is molded, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation does not serve to distinguish over the prior art. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Marriott et al. to mold the integral part because it is old and well-known in the art to use injection molding to simplify the manufacturing and assembly.

With respect to claims 17 and 19, Enders discloses the claimed invention as discussed above, and that the case comprises a circumferential wall portion (369, 370, and side walls as shown in Figure 12) located around the case opening for covering the folded airbag. The airbag cover comprises a door (371) openable when pushed by the inflating airbag, a thinned breakable portion (379) located in the periphery of the door and breakable when pushed by the airbag to help open the door, a hinge line (bottom edge of portion surrounding opening 377) located in the periphery of the door and bended upon opening of the door, and a joint wall portion (80) to be attached to the case circumferential wall portion by having the case retainer inserted therein and thus being held by the case retainer.

Enders does not disclose that the circumferential wall portion comprises a retainer protruded outward for attachment to the airbag cover. Enders, does, however, disclose that the cover comprises a retainer (373) for attachment to the circumferential wall portion. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

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made to have the retainers on the housing and the holes (375) on the cover, since it has been held that a mere reversal of the essential working parts of the device involves only routine skill in the art.

Enders also does not disclose that the molded part integrating the portion of the decoration member around the container box and the airbag cover is a two-color part of soft material and hard material each of which is compatible to each other, and at least the doors, the hinge line, and the joint wall portion of the airbag cover are soft sections made from the soft material, and remaining portions are hard sections made from the hard material.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use two-color soft and hard materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

With respect to claim 20, the lid of the container box is assembled with the molded part to form a panel module, and the lid is mounted on the vehicle by attaching the panel module to the vehicle (Figure 12).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sutherland et al., Takimoto et al., Saslecov, Abe et al., Bossenmaier, Terai, Umehara, and Takasugi disclose similar airbag devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J. Brown
Examiner
Art Unit 3616

DJB
3/21/06

 3/28/06
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